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Bayer CropScience



Date November 7, 2005
Examiner Alton N. Pryor
USPTO
To Group No. 1616
Company Bayer CropScience LP
Fax 571-273-0621 Pages: 7 - Including cover
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From Richard E. L. Henderson
Fax 412-777-3902 Tel. 412-777-3809
cc: _____
Re: Mo-7193D/LeA 34, 161D - U.S. Serial No. 10/619,730

Bayer CropScience LP
100 Bayer Road
Pittsburgh, PA 15205-9741

With regard to our phone conversation of November 3, 2005,
attached is the corrected Declaration of Ulrike Wachendorff-Neumann
dated November 4, 2005/

Richard E. L. Henderson

Reg. No. 31619

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PATENT APPLICATION
Mo7193D
LeA 34,161D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF)
ULRIKE WACHENDORFF-NEUMANN ET AL) GROUP NO: 1616
SERIAL NO.: 10/619,730) EXAMINER: A. N. PRYOR
FILED: JULY 15, 2003)
TITLE: FUNGICIDAL COMBINATIONS)
OF ACTIVE SUBSTANCES)

LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

During a phone interview with the Examiner on November 3, 2005, Applicants' undersigned attorney recognized that a previously submitted Declaration under 37 C.F.R. 1.132 of Dr. Ulrike Wachendorff-Neumann (one of the inventors) included a typographical error in the table at the top of page 3. In particular, the "ratio of the mixture" entry in the table was shown as 1:1 instead of the correct value of 1:10. [The correct value can be determined from the application rates shown in this table as well as the table at the bottom of page 2.] For purposes of clarification, Applicants now submit a corrected and newly signed Declaration of Dr. Wachendorff-Neumann as kindly suggested by the Examiner.

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Richard E. L. Henderson, Reg. No. 31,819

Type or print name of person signing certification

Richard E. L. Henderson

Signature

November 7, 2005

Date

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Allowance of the claims is respectfully requested.

Respectfully submitted,

By Richard E. L. Henderson
Richard E. L. Henderson
Attorney for Applicant(s)
Reg. No. 31,619

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Mo7193D

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Wachendorff-Neumann et al.
Serial No.: 10/619,730
Filed: July 15, 2003
For: Fungicidal combinations of active substances
Art Unit: 1616
Examiner: Alton N. Pryor

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Hon. Commissioner of Patents and Trademarks

Washington, D.C. 20231

DECLARATION

I, Ulrike Wachendorff-Neumann, of Oberer Markweg 85, 56566 Neuwied, Germany, a citizen of Germany, hereby declare:

1. that I am an entomologist having studied at the University of Bonn, Germany;
2. that I received the degree of doctor rer. nat. at the University of Bonn, Germany in the year 1982;
3. that I specialized in the field of entomology and phytopathology;
4. that, I entered the employ of Bayer Aktiengesellschaft, Leverkusen, Germany, in 1982, where I have been employed in the department for the biological development of chemical compounds for plant diseases at Monheim, Germany, that after the spin-off from Bayer CropScience AG I am now employee of this company in the department of Global Biology Fungicides;
5. that the following experiments with the following results have been carried out under my supervision and direction.

LeA 34 161

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Phytophthora test (tomatoes) / protective

Solvent: 24.5 parts by weight of acetone
 24.5 parts by weight of dimethylacetamide
 Emulsifier: 1 part by weight of alkylaryl polyglycol ether

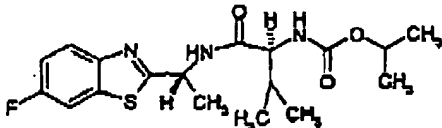
To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with the stated amounts of solvent and emulsifier, and the concentrate is diluted with water to the desired concentration.

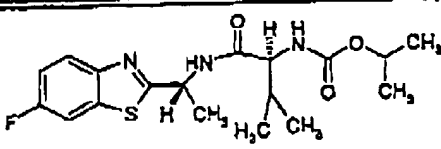
To test for protective activity, young plants are sprayed with the preparation of active compound at the stated rate of application. After the spray coating has dried on, the plants are inoculated with an aqueous spore suspension of *Phytophthora infestans*. The plants are then placed in an incubation cabinet at approximately 20 °C and a relative atmospheric humidity of 100 %

The test is evaluated 3 days after the inoculation. 0 % means an efficacy which corresponds to that of the control, while an efficacy of 100 % means that no disease is observed

Results:

Phytophthora test (tomatoes) / protective

Active Compound	Application rate of Active Compound in g/ha	Efficacy in %
	0,5	50
Fosetyl-Al (Ex. XX)	5	2

Inventive compound combination	ratio of the mixture	Applica- tion rate of active compo und in g/ha	Actual efficacy in %	Expected value, calculated using Colby's formula
	1:10	0,5	82	51
Fosetyl-Al (Ex. XX)		5		

A synergistic effect of fungicides is always present when the fungicidal activity of the active compound combinations exceeds the total of the activities of the active compounds when applied individually

The expected activity for a given combination of two active compounds can be calculated as follows (cf. Colby, S.R., "Calculating Synergistic and Antagonistic Responses of Herbicide Combinations", Weeds 15, pages 20-22, 1987):

If

X is the efficacy, when applying the active compound A at a rate of application of active compound of m g/ha,

Y is the efficacy, when applying the active compound B at a rate of application of active compound of n g/ha,

E is the expected efficacy, when applying the active compound A and B at a rates of application of active compound of m and n g/ha,

$$\text{then } E = X + Y - \frac{X \cdot Y}{100}.$$

The table above shows that the observed activity of the active compound combination according to the invention is greater than the calculated activity, i.e. a synergistic effect is present.

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The undersigned declarant declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed at Monheim, Germany,

2005-11-04
Date

Ulrike Wachendorff-Neumann
Dr. Ulrike Wachendorff-Neumann

La A 34 181

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PAGE.05

+49 2173 384869

PAGE 7/7 * RCVD AT 11/7/2005 3:33:11 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/31 * DNIS:2738300 * CSID:412 777 3912 * DURATION (mm-ss):01:44

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